

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION**

WILLIAM CLARK, THOMAS FIGURES
and DR. JOE L. REED,

Plaintiffs,

v.

GOVERNOR BOB RILEY, in his official
capacity, and ELTON DEAN, in his official
capacity as Chair of the Board of Trustees
of Alabama State University,

Defendants.

2007 MAR -2 P 3:07

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA.

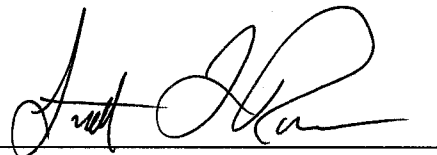
CIVIL ACTION NO. 2:07CV190-WKW

From the Circuit Court of
Montgomery County, Alabama
Case No. 03-CV-2007-900076.00

NOTICE OF FILING IN STATE COURT

COMES NOW Defendant Governor Bob Riley, by and through his counsel of record, and submits this notice to inform the Court that removal of this action has been perfected by filing a copy of the Notice of Removal with the Circuit Court of Montgomery County on this day. See 28 U.S.C. § 1446(d) ("fil[ing] a copy of the notice [of removal] with the clerk of such State court . . . shall effect the removal and the State court shall proceed no further unless and until the case is remanded"). For the Court's reference, a file-stamped copy of the notice filed in state court is attached as Exhibit A.

Respectfully submitted,



Scott L. Rouse (ROU010)
Deputy Legal Advisor
Office of the Governor

ADDRESS OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of March 2007, I did serve a copy of the foregoing on counsel for the Plaintiffs, by placing the same in the United States Mail, first class, postage prepaid, and addressed as follows:

J. Cecil Gardner, Esq.
M. Vance McCrary, Esq.
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Mobile, Alabama 36602

John B. Crawley, Esq.
8115 Amber Street
Montgomery, Alabama 36117

Kenneth L. Thomas, Esq.
Christopher K. Whitehead, Esq.
Thomas, Means, Gillis & Seay, P.C.
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EXHIBIT A

**IN THE CIRCUIT COURT
OF MONTGOMERY COUNTY, ALABAMA**

WILLIAM CLARK, THOMAS FIGURES
and DR. JOE L. REED,

Plaintiffs,

v.

GOVERNOR BOB RILEY, in his official
capacity, and ELTON DEAN, in his official
capacity as Chair of the Board of Trustees
of Alabama State University,

Defendants.

Case No. 03-CV-2007-900076

FILED
CIRCUIT COURT OF
MONTGOMERY COUNTY
2007 MAR -2 PM 1:09

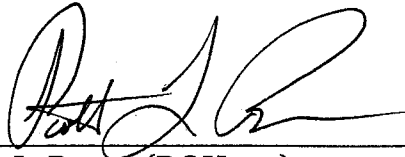
NOTICE OF FILING

COME NOW Defendants Governor Bob Riley and Elton Dean (collectively "the Defendants"), by and through their respective counsel of record, and give notice to this Honorable Court that they have on this date filed in the United States District Court for the Middle District of Alabama, Northern Division, a Notice of Removal of the above-styled action. A copy of the Defendants' Notice of Removal is attached as Exhibit A. By federal statute, the filing of this notice "shall effect the removal and the State court shall proceed no further unless and until the case is remanded." 28 U.S.C. § 1446(d).

Respectfully submitted,



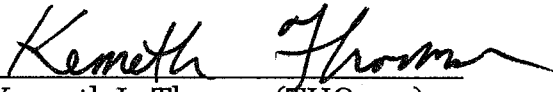
Kenneth D. Wallis, II (WAL064)
Chief Legal Advisor
Office of the Governor



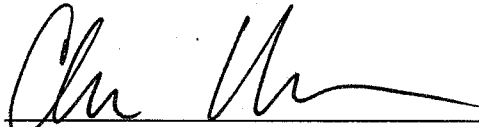
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Kenneth L. Thomas (THO043)
Attorney for Defendant Elton Dean



Christopher K. Whitehead (WHI105)
Attorney for Defendant Elton Dean

ADDRESS OF COUNSEL:

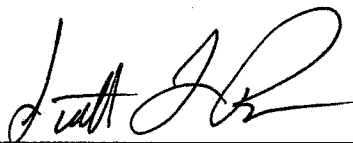
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EXHIBIT A
**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
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WILLIAM CLARK, THOMAS FIGURES
and DR. JOE L. REED,

Plaintiffs,

v.

GOVERNOR BOB RILEY, in his official
capacity, and ELTON DEAN, in his official
capacity as Chair of the Board of Trustees
of Alabama State University,

Defendants.

2007 MAR -2 P 12:41

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

CIVIL ACTION NO. _____

From the Circuit Court of
Montgomery County, Alabama
Case No. 03-CV-2007-900076.00

NOTICE OF REMOVAL

COME NOW Defendants Governor Bob Riley and Elton Dean (collectively "the Defendants"), by and through their respective counsel of record and, in filing this Notice of Removal, state and allege as follows:

1. Governor Riley and Elton Dean are the only defendants in a civil action brought by Plaintiffs William Clark, Thomas Figures, and Dr. Joe Reed in the Circuit Court of Montgomery County. See Plaintiffs' Complaint, attached as Exhibit A. In their Complaint, these Plaintiffs have asserted a claim under 42 U.S.C. § 1983 for alleged violations of their rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. (See Complaint at ¶¶ 1, 10-13).

2. Pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446, the Defendants hereby remove this action to the United States District Court for the Middle District of Alabama, Northern Division, which is the judicial district and division where this action is pending.

3. The Defendants in this action are jointly and unanimously filing this Notice of Removal. See 42 U.S.C. § 1444, see also Russell Corp. v. American Home Assur. Co., 264 F.3d 1040, 1044 (11th Cir. 2001); In re Ocean Marine Mut. Prot. and Indem. Ass'n, Ltd., 3 F.3d 353, 355-56 (11th Cir. 1993). There are no additional nominal parties identified in the Complaint whose consent is necessary and/or required for the removal of this action. See id.

4. The federal question jurisdiction vested in this Court is evident “upon the face of the complaint.” Gully v. First National Bank, 299 U.S. 109, 113, 57 S. Ct. 96, 98 (1936). Removal is proper pursuant to 28 U.S.C. § 1441(b)¹ because this Court has original federal question jurisdiction over the Plaintiffs’ Fourteenth Amendment claims under 28 U.S.C. § 1331² and 28 U.S.C. § 1343(a)(3)³. See Grable & Sons Metal Products, Inc. v. Darue Engineering & Mfg., 545 U.S. 308, 312, 125 S. Ct. 2363, 2366 (2005); see also Fair Assessment in Real Estate Ass’n. Inc. v. McNary, 454 U.S. 100, 123, 102 S. Ct. 177, 189-90 (1981) (holding that, “§ 1983 gave a federal cause of action to prisoners, taxpayers, or anyone else who was able to prove that his constitutional or federal rights had been denied by any State . . . [and] Congress has expressly provided jurisdiction over such claims in the district courts.” (other citations and internal quotations omitted)).

¹ 28 U.S.C. § 1441(b) dictates that removal is proper of “[a]ny civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties.”

² 28 U.S.C. § 1331 provides, “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

³ 28 U.S.C. § 1343(a)(3) grants district courts original jurisdiction over claims “[t]o redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity.”

5. This Notice of Removal is timely under 28 U.S.C. § 1446(b), because the Defendants first received a copy of the Summons and Complaint via facsimile on or about February 2, 2007. This Notice of Removal is filed within thirty (30) days after such receipt of the Summons and Complaint and within one year of the commencement of the action.

6. The Summons and Complaint attached as Exhibit A constitutes “a copy of all process, pleadings, and orders served upon such defendant or defendants in [this] action.” 28 U.S.C. § 1446(a). There are presently no other pleadings or orders in the file of the state court action.

7. All fees required by law in connection with this Notice of Removal have been paid by the Defendants.

8. A copy of this Notice of Removal will promptly be filed with the Circuit Court of Montgomery County, Alabama, as required by 28 U.S.C. § 1446(d). Likewise, a copy of this Notice of Removal shall be served upon counsel for all the Plaintiffs.

9. Defendants respectfully request that this Court, pursuant to the authority granted it in both 28 U.S.C. § 1367(a) and 28 U.S.C. § 1441(c), exercise its supplemental jurisdiction over any state law claims asserted by Plaintiffs. Based upon the allegations in the Complaint, the Plaintiffs’ claims under § 1983 and their claims concerning Ala. Code § 16-50-20 are “so related . . . that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1367(a). Therefore, it is manifest that the maintenance of one action addressing all the Plaintiffs’ claims will best serve the interests of the parties, promote judicial economy, and avoid the duplication of efforts by the parties.

WHEREFORE, the Defendants hereby remove the above-captioned action now pending in the Circuit Court of Montgomery County, Alabama, to the United States District Court for the Middle District of Alabama, Northern Division.

Respectfully submitted,



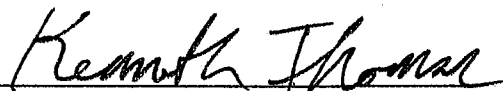
Kenneth D. Wallis, II (WALo64)
Chief Legal Advisor
Office of the Governor



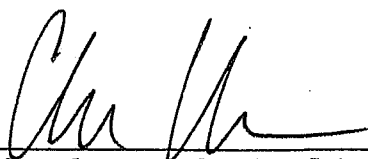
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Attorney for Defendant Elton Dean



Christopher K. Whitehead (WHI105)
Attorney for Defendant Elton Dean

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